

Let the wool be pulled off your eyes.

This proposal is an attempt to have the FCC act as the agent of a fundamental subversion of the very foundation of U.S. exclusive rights jurisprudence.

Unwilling to exercise their roles as the People's representatives, U.S. legislators seek to establish a precedent that violates the fundamental rights of free citizens, by having the FCC endorse the principle of a government-mandated universal form of content control. They pretend that this is in accordance with the interest of exclusive rights.

Not having the courage to directly enact Senator Fritz Hollings' Consumer Broadband and Digital Television Promotion Act, requiring that content control be built into every digital processing device, including personal computers, they have sought to establish its basic premise by means of rulings by agencies which have no jurisdiction in matters of exclusive rights policy.

The FCC's Notice of Proposed Rulemaking 02-230 is the United States' deceptive means of implementing the World Intellectual Property Organization's (WIPO) intent. This organization of unelected representatives, in an attempt to make exclusive rights policy for most of the civilized world, proposes that the very elements of published expressive works may be controlled by their creators.

The American exclusive rights tradition has traditionally upheld its Constitutional obligations to its citizens' fundamental rights of free speech, free press, and personal property, through a strict respect for the distinction between expression and information. In a free society, nobody can copyright information as such. For this reason, the exclusive rights clause of the U.S. Constitution implements numerous qualifications that show the primacy of fundamental rights over the exclusive rights that Congress is given power to grant. For this reason as well, copyright statute also includes a nebulous set of "fair use" provisions.

There is no way to implement a standardized form of universal content control, that respects free citizens' fundamental right to use information freely, regardless of its source; and that respects the rights of free citizens to use information technology to exercise those rights.

Any government-mandated form of universal content control is theft. The rights of the public, of free citizens in a free society to use information and information technology in useful, productive and flexible ways, are the fundamental stakes

brought to bear by those who propose that devices for processing digital information be expropriated from their rightful owners.

Hand this notion back to Congress. Tell our statesmen to stand up and be held accountable, if it is truly their intent to enact the principle that the use of information technology is a privilege, and not a fundamental human right.

Respectfully submitted,

Seth Johnson
Information Producers Initiative
275 Fort Washington Avenue
Suite 3C
New York, NY 10032
(212) 543-4265

December 6, 2002